

REMARKS

Claims 1-5, 7, 9 and 16-19 are now pending in the application. Claims 1, 4, 5, 7, and 9 have been amended. Claims 2, 3, 6, 8 and 10-15 have been canceled, without prejudice. New claims 16-19 have been added. The basis for the foregoing amendments and new claims may be found throughout the written description, drawings and claims, as originally filed. The Examiner is respectfully requested to reconsider and withdraw the outstanding rejection(s) in view of the amendments and remarks contained herein.

CLAIM OBJECTIONS

Claims 2, 9, 12, 13 and 15 are objected to for certain informalities.

Claims 2, 12, 13 and 15 have been cancelled, without prejudice, thereby rendering the Examiner's objections moot. Claim 9 has been amended consistent with the Examiner's suggestions to address the antecedent support in the claim.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the objections.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-4 and 7-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richardson (U.S. Pat. No. 726,348) in view of Haney (U.S. Pat. No. 5,474,016). Claims 10 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richardson (U.S. Pat. No. 726,348) and Haney (U.S. Pat. No. 5,474,016) as applied above and further in view of Strimple (U.S. Pat. No. 1,360,992).

Claims 5, 6, 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richardson (U.S. Pat. No. 726,348) and Haney (U.S. Pat. No. 5,474,016) as applied above and further in view of Marin (U.S. Pub. No. 2002/0178994). Claims 11 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richardson (U.S. Pat. No. 726,348) and Haney (U.S. Pat. No. 5,474,016) as applied above and further in view of Strimple (U.S. Pat. No. 1,360,992) and Marin (U.S. Pub. No. 2002/0178994).

The foregoing rejections are respectfully traversed, particularly in view of the preceding claim amendments.

The present application discloses an over-height vehicle barrier having a supporting beam mounted above a roadway. The barrier includes multiple "blade-like" members that are rotatably suspended from the supporting beam in a parallel relationship and in close proximity one to another. Each member can rotate about the axis of the beam. A leading edge of each "blade-like" member faces oncoming traffic for possible engagement (e.g., being struck) by an over-height vehicle, and can rotate independently of the other members if so engaged. A second beam is engageable by each rotating blade member. The second beam limits the extent of rotation of the member about the axis of the supporting beam, and causes the members to rotate in a return direction. Engagement of the members by a vehicle generates a warning noise to alert the driver of the vehicle. Moreover, the second beam can generate additional noise when engaged by the rotating members.

The "blade-like" form of the rotating member (i.e., it is relatively thin in relation to its length and depth) enables the members to be mounted on the supporting beam in

such close proximity to each other that the array of members gives the appearance of a solid beam to oncoming traffic. Such appearance provides a substantial visual deterrence to drivers of vehicles having loads which may possibly be over-height. See, e.g., claims 1, 17 and 19.

When struck by an over-height load the members generate noise to alert the driver. The noise may be maximized when the members strike the second beam, which itself generates a resonant noise. See, e.g., claims 7, 9, and 19.

At the same time, though, the members do not have a mass sufficient to cause dislodgement onto the roadway of parts of the over-height load. Moreover, one embodiment of the invention recites that the structure of the members is such as to deform upon impact to absorb energy. See, e.g., claims 5, 17 and 19.

These constructions of the claimed invention present advantages not available in the prior art. None of the cited references, either singly or in combination, discloses an over-height vehicle barrier with pivotal load engaging members which are packed tightly together to form the appearance of a solid beam as defined in each of the independent claims 1, 17 and 19 as now presented. In each case, the engaging members of the prior art are in the form of widely spaced rods and the illustrated structures by which they are pivotally mounted to their respective supporting beams are such that not only is a dense packing arrangement to produce the claimed effect not possible, if the engaging members were to be spaced more closely together, interference between adjacent members is likely to occur. Of course, none of the references discloses the "blade-like" configuration of the invention which is a significant factor enabling the tight packing to be achieved.

NEW CLAIMS 16-19

New claims 16-19 have been added.

Claim 16 ultimately depends from independent claim 1. New claim 17 is in independent form, and claim 18 depends therefrom. Claim 19 is also in independent form. At least for the foregoing reasons discussed above, Applicants submit that claims 16-19 are patentable and in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: July 31, 2007

By: /dpu/
David P. Utykowski
Reg. No. 39,052

HARNES, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

DPU/src